

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FREE SPEECH COALITION, INC., et al	CIVIL ACTION
v.	NO. 09-4607
HON. ERIC H. HOLDER, JR.	

ORDER

AND NOW, this 2nd day of November, 2017, following the Third Circuit's remand in this case, briefing and oral argument on September 28, 2017 (ECF 257), the Court required statements from counsel on what further relief should be granted to Plaintiffs or otherwise and counsel submitted proposals (ECF 260 and 261).

Plaintiffs have an interest in promulgating industry-wide standard of conduct and Defendants had indicated a new found willingness to supplement the factual record. Following review of all these materials, and in the context of the Third Circuit's remand decision, and recognizing that the applicable standard of strict scrutiny imposes the burden of proof on the Government, the Court **ORDERS**:

1. The Defendants/Government's request to require Plaintiffs to answer written discovery (interrogatories, requests for documents and admissions), is **DENIED**. The proposed discovery would be very burdensome, comes after extensive factual development of this case through prior discovery and a trial, and would impose a significant burden on the Plaintiffs which is inconsistent with the Government having the burden of proof on any further proceedings in this case.

2. The Court will **GRANT** the Defendants' request to file written sworn declarations, provided they are relevant on the concept of strict scrutiny, and contain specific proposals or requests that the Court should adopt in fashioning a final decree in this case under the strict

scrutiny standard, and a brief within 30 days.

3. The Court notes that Defendants have no interest in presenting any further expert evidence.

4. Plaintiffs shall respond to the Government's proposed declarations, with legal arguments in a brief, and/or counter-declarations within 30 days.

5. The Court will consider the above materials and determine what further proceedings should take place, which may include an evidentiary hearing or oral argument, or both.

BY THE COURT:

/s/ Michael M. Baylson

MICHAEL M. BAYLSON, U.S.D.J.

O:\CIVIL 09\09-4607 Free Speech v. Holder\09-4607 Order drafted 11012017.docx